

FILED
13 January 17 P6:41
Stan Stanart
County Clerk
Harris County

Cause No. 1021235

HARRY FLEMING,

Plaintiff,

vs.

SUNTECH AMERICA, INC.,

Defendant

§ IN THE COUNTY CIVIL COURT

§ AT LAW NO. ONE (1)

§ OF HARRIS COUNTY, TEXAS

**PLAINTIFF'S RESPONSE TO SUNTECH AMERICA, INC.'S
MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Harry Fleming files this Response to the Traditional Motion for Summary Judgment filed by Defendant Suntech America, Inc. ("Suntech") and would respectfully show the Court the following:

INTRODUCTION

Plaintiff filed this suit against Suntech requesting a declaratory judgment that Plaintiff is not the alter ego of two corporations, Acro Energy Technologies Corp., a British Columbia corporation ("Acro-BC") and Acro Energy Technologies, Inc., a California corporation ("Acro-CA")(collectively the "Acro Entities") and that his assets are not liable to satisfy any liabilities owed by the Acro Entities.

On or about May 1, 2012, Suntech filed an Original Complaint against the Acro Entities in California entitled *Suntech America, Inc., v. Acro Energy Technologies, Inc., et al.*, San Francisco County Superior Court Case No.: CGC-12-520454 (the "California Action"). In the Complaint, Suntech alleged that beginning on June 26, 2011, the Acro Entities breached the terms of a contract between the Parties by failing to timely pay for

certain solar modules and related materials. On or about May 23, 2012, Suntech filed a First Amended Complaint (“Amended Complaint”) in the California Action, in which Suntech added Fleming as a defendant in the California Action contending that Fleming was the “alter ego” of the Acro Entities.

Pursuant to the terms of a Settlement Agreement and Mutual General Release dated effective August 31, 2012, Suntech and the Acro Entities settled the California Action. In consideration of payments to be made by the Acro Entities described in the Settlement Agreement, Suntech dismissed its claims against the Acro Entities and Fleming, without prejudice. However, until such time as the Acro Entities satisfied all obligations set forth in the Settlement Agreement, Suntech reserved all right to pursue recovery against Fleming under the alter ego theory.

ARGUMENT AND AUTHORITIES

The standard for review of a summary judgment is that the Court must find that there is no genuine issue of fact and that the movant is entitled to judgment as a matter of law. *See Cate v. Dover Corp.*, 790 S.W.2d 559, 562 (Tex. 1990). All doubts as to the existence of a genuine issue of material fact must be resolved against the movant. *See Acker v. Texas Water Comm’n*, 790 S.W.2d 299, 301 (Tex. 1990). All evidence and reasonable inferences are to be viewed in the light most favorable to the non-movant. *See Harwell v. State Farm Mut. Auto Ins. Co.*, 896 S.W.2d 170, 173 (Tex. 1995).

Suntech’s Motion is founded solely on the erroneous premise that since the declaration sought in this suit is not specifically enumerated in section 37.004 of the Civil Practice and Remedies Code, Suntech is entitled to summary judgment.

However, as found by the Supreme Court, the subjects enumerated in the Declaratory Judgments Act are not exclusive. Bonham State Bank v. Beadle, 907 S.W.2d 465, 468 (Tex. 1995). As noted in Bonham, the Declaratory Judgment Act clearly provides:

The enumerations in Sections 37.004 and 37.005 do not limit or restrict the exercise of the general powers conferred in this section in any proceeding in which declaratory relief is sought and a judgment or decree will terminate the controversy or remove an uncertainty.

Id., Tex.Civ.Prac. & Rem.Code § 37.003.

Indeed, the stated purpose of the Declaratory Judgments Act is “to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations.” Tex.Civ.Prac. & Rem.Code § 37.002(b) (Vernon 2011). The statute expressly provides that it is “remedial” and “is to be liberally construed.” *Id.* Bonham at 467.

The declaration sought by Fleming will terminate a controversy and remove an uncertainty. This court has discretion to enter a declaratory judgment so long as it will serve a useful purpose or terminate the controversy between the parties. Bonham, 907 S.W.2d at 468. In fact, trial courts have limited discretion to refuse a declaratory judgment, and may do so only where judgment would not remove the uncertainty giving rise to the proceedings. SpawGlass Construction Corp. v. City of Houston, 974 S.W.2d 876, 878 (Tex.App.-Houston [14th Dist.] 1998, review denied).

WHEREFORE, PREMISES CONSIDERED, Plaintiff Harry Fleming requests that this Court deny Defendant Suntech America, Inc.’s Traditional Motion for Summary Judgment.

Respectfully submitted

**Michael P. Fleming &
Associates, P.C.**



By:

Michael P. Fleming

SBN: 07130600

David Tang

SBN:. 24014483

440 Louisiana, Suite 1920

Houston, Texas 77002

(713) 221-6800

(713) 221-6806 fax

Counsel for Plaintiff Harry Fleming

CERTIFICATE OF SERVICE

The undersigned certifies that on January 17, 2013, a copy of the foregoing document was served upon the following attorney of record.

Evan A. Moeller
Hirsch & Westheimer, P.C.
700 Louisiana, 25th Floor
Houston, Texas 77002-2772.



David Tang

From: Evan A. Moeller
To: Jane S. Gray
Subject: FW: Electronic Service of Copies for Cause 1021235
Date: Friday, January 18, 2013 10:46:09 AM

Please pull and print.

-----Original Message-----

From: efiling@myfilerunner.com [<mailto:efiling@myfilerunner.com>]
Sent: Thursday, January 17, 2013 6:42 PM
To: Evan A. Moeller
Subject: Electronic Service of Copies for Cause 1021235

DO NOT REPLY TO THIS E-MAIL.

Evan A. Moeller,

Electronic Service of Copies information follows for Cause 1021235:

eFiling for Courts Delivered to Court: Harris County Civil Courts at Law
Name of Serving Party: David Tang
Cause/Cause Number: 1021235
Court Assignment: County Civil Court at Law No.1
Style/Case Name: 1021235; fleming v suntech
Trace Number: EC101J017277981

Access the following URL in order to view these documents:
<https://www.efilingforcourts.com/MyFileRunner/EServiceInbox.aspx>

Please note that the delivery of eService to your inbox may take up to an hour. If you have not received eService within two hours of notification, please contact your Service Provider.

Confidentiality Notice:

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FILED
13 January 18 P12:44
Stan Stanart
County Clerk
Harris County

WRITER'S DIRECT DIAL
(713) 220-9128

LAW OFFICES OF
HIRSCH & WESTHEIMER, P.C.

700 LOUISIANA, 25TH FLOOR
HOUSTON, TEXAS 77002-2772

www.hirschwest.com
dducote@hirschwest.com

Main Office: (713) 223-5181 Facsimile: (713) 223-9319

January 18, 2013

Mr. Michael P. Fleming
Mr. David Tang
Michael P. Fleming & Associates, P.C.
440 Louisiana, Suite 1920
Houston, Texas 77002

Via Facsimile: 713.221.6806

Re: Cause No. 1021235; *Harry Fleming v. Suntech America, Inc.*; In the
County Civil Court at Law Number One (1) of Harris County, Texas.

Dear Counsel:


Please allow this correspondence to serve as a follow-up to my recent voicemail.

As stated in my voicemail, we are in receipt of Plaintiff's Motion to Compel Discovery, as well as the Notice of Hearing on the same. Please note that I've talked with Rick at County Civil Court at Law No. 1 who advised that your Motion is not currently on their January 22, 2013 oral hearing docket and that once the Court is in receipt of your Notice, that you should expect a phone call advising that we cannot have your hearing on January 22, 2013 because of the Court only receiving a 1 day notice and because the Court cannot add any other hearings on the docket of January 22, 2013.

Further, please note that Mr. Moeller is not available on January 22, 2013 due to him having oral hearings in Brazoria County on previously-filed Motions for Summary Judgment. We are however, open to setting your Motion to Compel on the Court's hearing docket at a mutually agreeable date and time. Please contact me for Mr. Moeller's availability.

Very truly yours,

HIRSCH & WESTHEIMER, P.C.

By: 
Dana Ducote, Paralegal to
Evan A. Moeller

cc: Mr. Rick Wilson
Clerk for the County Civil Court at Law No. 1
/dld

Via E-File

WRITER'S DIRECT DIAL
(713) 220-9128

LAW OFFICES OF
HIRSCH & WESTHEIMER, P.C.

700 LOUISIANA, 25TH FLOOR
HOUSTON, TEXAS 77002-2772

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January 18, 2013

Mr. Michael P. Fleming
Mr. David Tang
Michael P. Fleming & Associates, P.C.
440 Louisiana, Suite 1920
Houston, Texas 77002

Via Facsimile: 713.221.6806

Re: Cause No. 1021235; *Harry Fleming v. Suntech America, Inc.*; In the
County Civil Court at Law Number One (1) of Harris County, Texas.

Dear Counsel:


Please allow this correspondence to serve as a follow-up to my recent voicemail.

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Very truly yours,

HIRSCH & WESTHEIMER, P.C.

By: 
Dana Ducote, Paralegal to
Evan A. Moeller

cc: Mr. Rick Wilson
Clerk for the County Civil Court at Law No. 1
/lld

Via E-File

FILED
13 January 23 P4:40
Stan Stanart
County Clerk
Harris County

CAUSE NO. 1021235

HARRY FLEMING	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	AT LAW NO. ONE (1)
	§	
SUNTECH AMERICA, INC.	§	
	§	
Defendant.	§	OF HARRIS COUNTY, TEXAS

**DEFENDANT SUNTECH AMERICA, INC.'S REPLY TO PLAINTIFF'S
RESPONSE TO SUNTECH AMERICA, INC.'S TRADITIONAL
MOTION FOR SUMMARY JUDGMENT**

Defendant, Suntech America, Inc. ("*Suntech*") files this Reply to Plaintiff's Response to Suntech America, Inc.'s Traditional Motion for Summary Judgment and would respectfully show unto the Court as follows:

INTRODUCTION

1. Plaintiff is Harry Fleming ("*Plaintiff*"); Defendant is Suntech America, Inc.
2. On October 9, 2012, Plaintiff filed his Original Petition seeking a declaratory judgment against Suntech.
3. On November 9, 2012, Defendant Suntech filed its Original Answer.
4. Discovery in this suit is governed by a Level 2 discovery-control plan.
5. Trial is set for April 15, 2013.

ARGUMENT AND AUTHORITIES

I. PLAINTIFF CANNOT USE THIS FORUM TO REWRITE A CALIFORNIA SETTLEMENT AGREEMENT OR RE-LITIGATE A CALIFORNIA CASE.

6. By his own recitations, Plaintiff's Response reveals the improper purpose for which this suit was brought.

7. In the introduction of Plaintiff's Response, he states "in consideration of payments to be made by the Acro Entities ("*Acro*") described in the Settlement Agreement,

Suntech dismissed its claims against the Acro Entities and Fleming, without prejudice. However, until such time as the Acro Entities satisfied all obligations set forth in the Settlement Agreement, Suntech reserved all right (sic) to pursue recovery against Fleming under the alter ego theory.” See Plaintiff’s Response at p. 2.

8. If Plaintiff wished to foreclose his potential alter ego liability for Acro’s debts, he should have negotiated that into the agreement settling the California litigation.¹

9. Suntech is entitled to summary judgment.

II. NO JUSTICIABLE CONTROVERSY UNDER CHAPTER 37.

10. In his Response, Plaintiff generically argues that *Bonham State Bank v. Beadle* stands for the proposition that “subjects enumerated in the Declaratory Judgments Act are not exclusive.” See Plaintiff’s Response at p. 3.

11. *Bonham* involved a creditor’s declaratory judgment action for offset where both the creditor and debtor had separate judgments against each other. *Bonham State Bank v. Beadle*, 907 S.W.2d 465, 468 (Tex. 1995).

12. As such, Bonham State Bank’s rights were affected under “other writings” [the two judgments] contemplated by Chapter 37 in that the judgment debtor could potentially collect a judgment against Bonham when Bonham would likely have no ability to collect a much larger judgment against the judgment proof Beadle.

13. No such justiciable controversy exists here. In the instant matter, Plaintiff is asking the Court to foreclose a theory of recovery in a lawsuit which has never been brought in this Court, but is actually pending in a court of a sister state.

¹ Because the California litigation is still pending, this Court is without jurisdiction to hear this case, even if there were a judiciable controversy under Chapter 37. Moreover, even after the California court signs an order of dismissal, it will retain continuing, exclusive jurisdiction over the claims made the basis of that suit, including alter ego liability. The Court may raise subject matter jurisdiction on its own motion and dismiss this matter accordingly. If necessary, Defendant will file a separate Motion to Dismiss on that basis if the Court so desires.

14. Moreover, even if this Court had subject matter jurisdiction, Plaintiff fails to cite a single authority providing that a court may preemptively adjudicate a person's alter ego status.

15. Suntech is entitled to summary judgment.

III. THE DECLARATORY JUDGMENTS ACT CANNOT BE USED TO ADJUDICATE CLAIMS WHICH ARE ALREADY IN CONTROVERSY.

16. "A declaratory judgment is not available to settle legal disputes already pending before the court." *Ysasaga v. Nationwide Mut. Ins. Co.*, 279 S.W.3d 858, 863 (Tex. App.--Dallas 2009, pet. denied) citing *BHP Petroleum Co. v. Millard*, 800 S.W.2d 838, 841 (Tex.1990).

17. Suntech already sued Acro and Fleming for breach of the contract governing the parties' relationship, further alleging that Fleming is liable for Acro's debts as its alter ego. *See* Plaintiff's Response pp. 1-2. As such, the alter ego status on which Fleming seeks the declaration of this Court was already placed in controversy in the California court, and the redundancy rule bars Plaintiff's claims in that it involves the same parties and the same issues raised by Suntech's California lawsuit. *Ysasaga*, 279 S.W.3d at 863, citing *Tucker v. Graham*, 878 S.W.2d 681, 683 (Tex. App. Eastland 1994, no writ). Texas courts apply this rule whether the claim for declaratory relief is asserted in a separate proceeding or as a counterclaim in the same proceeding. *HECI Exploration Co. v. Clajon Gas Co.*, 843 S.W.2d 622, 639 (Tex. App. — Austin 1992, writ denied).

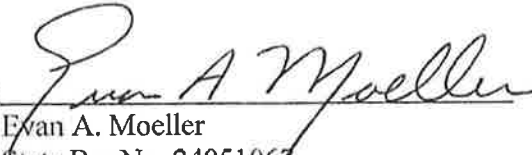
18. Suntech is entitled to summary judgment.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Suntech America, Inc. asks the Court to dismiss this cause for want of subject matter jurisdiction, or alternatively, render final summary judgment in favor of Defendant Suntech America, Inc. and against Plaintiff Harry Fleming on all of Plaintiff's claims pursuant to Texas Rule of Civil Procedure 166a.

Respectfully submitted,

HIRSCH & WESTHEIMER, P.C.

By: 
Evan A. Moeller
State Bar No. 24051067
700 Louisiana, 25th Floor
Houston, Texas 77002-2772
Telephone: (713) 220-9163
Facsimile: (713) 223-9319

**ATTORNEYS FOR DEFENDANT,
SUNTECH AMERICA, INC.**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served by facsimile and certified mail, return receipt requested, as indicated below on the 23rd day of January, 2013.

Michael P. Fleming
Laura Krzesienski
440 Louisiana, Ste. 1920
Houston, Texas 77002
Via Facsimile: 713.221.6806


Evan A. Moeller

Cause No. 1021235

HARRY FLEMING,

Plaintiff,

vs.

SUNTECH AMERICA, INC.,

Defendant

IN THE COUNTY CIVIL COURT

AT LAW NO. ONE (1)

OF HARRIS COUNTY, TEXAS

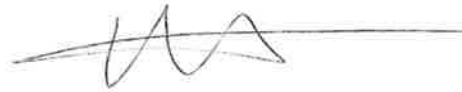
AMENDED Notice of Oral Hearing

Please take notice that the following motion(s) will be heard on the oral hearing docket of the Harris County Civil Court at Law No. 1 on January 29, 2013 at 9:00 a.m.:

PLAINTIFF'S MOTION TO COMPEL DISCOVERY

Respectfully submitted

Michael P. Fleming & Associates, P.C.



By: _____

Michael P. Fleming

SBN: 07130600

David Tang

SBN: 24014483

440 Louisiana, Suite 1920

Houston, Texas 77002

(713) 221-6800

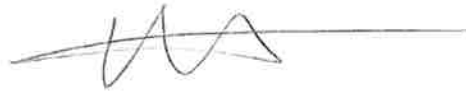
(713) 221-6806 fax

Counsel for Plaintiff Harry Fleming

CERTIFICATE OF SERVICE

The undersigned certifies that on January 24, 2013, a copy of the foregoing document was served upon the following attorney of record.

Evan A. Moeller
Hirsch & Westheimer, P.C.
700 Louisiana, 25th Floor
Houston, Texas 77002-2772.

A handwritten signature in dark ink, appearing to be 'David Tang', written over a horizontal line.

David Tang

FILED
13 January 25 A11:44
Stan Stanart
County Clerk
Harris County

CAUSE NO. 1021235

HARRY FLEMING

Plaintiff,

v,

SUNTECH AMERICA, INC.

Defendant.

§
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IN THE COUNTY COURT

AT LAW NO. ONE (1)

OF HARRIS COUNTY, TEXAS

**DEFENDANT SUNTECH AMERICA, INC.'S RESPONSE TO
PLAINTIFF'S MOTION TO COMPEL**

Defendant, Suntech America, Inc. ("*Suntech*") files this Response to Plaintiff's Motion to Compel and would respectfully show unto the Court as follows:

INTRODUCTION

1. Plaintiff is Harry Fleming ("*Plaintiff*"); Defendant is Suntech America, Inc.
2. On October 9, 2012, Plaintiff filed his Original Petition seeking a declaratory judgment against Suntech.
3. On November 9, 2012, Defendant Suntech filed its Original Answer.
4. Discovery in this suit is governed by a Level 2 discovery-control plan.
5. Trial is set for April 15, 2013.

ARGUMENT

6. It is readily apparent from the face of Plaintiff's discovery requests that Plaintiff is attempting to use this forum to conduct discovery on claims asserted in Cause No. CGC-12-520454, *Suntech America, Inc. v. Acro Energy Technologies, Inc., et al.*; Superior Court of California, County of San Francisco. See counsel for Defendant, Evan A. Moeller's January 25, 2013 letter, including exhibits, which is fully incorporated herein.

7. The appropriate forum to secure discovery on the claims asserted in the Superior Court in California is the Superior Court of California.¹

8. Plaintiff's Motion to Compel should be denied.

CONCLUSION AND PRAYER

For these reasons, Suntech America, Inc. asks the Court to deny Plaintiff's Motion to Compel.

Respectfully submitted,

HIRSCH & WESTHEIMER, P.C.

By: 

Evan A. Moeller
State Bar No. 24051067
700 Louisiana, 25th Floor
Houston, Texas 77002-2772
Telephone: (713) 220-9163
Facsimile: (713) 223-9319

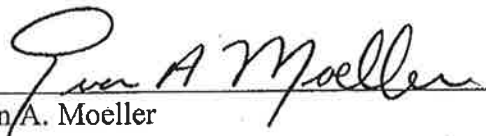
**ATTORNEYS FOR DEFENDANT,
SUNTECH AMERICA, INC.**

¹ Likewise, this Court lacks jurisdiction to hear claims already brought in another jurisdiction, by the same parties. Moreover, Plaintiff's claim for Declaratory Relief violates the Redundancy Rule prohibiting litigants from seeking declaratory relief on claims already before the court, whether by counterclaim, or separate proceeding. *Ysasaga v. Nationwide Mut. Ins. Co.*, 279 S.W.3d 858, 863 (Tex. App.--Dallas 2009, pet. denied) citing *BHP Petroleum Co. v. Millard*, 800 S.W.2d 838, 841 (Tex. 1990); *Tucker v. Graham*, 878 S.W.2d 681, 683 (Tex. App. Eastland 1994, no writ).

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Response was served via facsimile, certified mail, return receipt requested, and/or hand delivery, as indicated below, on this the 25th day of January, 2013.

Michael P. Fleming
David Tang
440 Louisiana, Ste. 1920
Houston, Texas 77002
Via Facsimile: 713.221.6806



Evan A. Moeller

WRITER'S DIRECT DIAL NUMBER
(713) 220-9163

LAW OFFICES OF
HIRSCH & WESTHEIMER, P.C.

700 LOUISIANA, 25TH FLOOR
HOUSTON, TEXAS 77002-2772

www.hirschwest.com
emoeller@hirschwest.com

Main Office: (713) 223-5181

Facsimile: (713) 223-9319

January 25, 2013

Honorable Debra Ibarra Mayfield
Harris County Civil Court at Law No. One (1)
201 Caroline, 5th Floor
Houston, Texas 77002

RECEIVED
2013 JAN 25 PM 4:26
Via E-File
Harris County Clerk
HARRIS COUNTY CLERK
JAN 25 2013

Re: Cause No. 1021235; *Harry Fleming v. Suntech America, Inc.*; In the
County Civil Court at Law Number One (1) of Harris County, Texas.

Dear Judge Mayfield:

With regard to the above-referenced cause and the proceedings of January 24, 2013,
please find attached the following:

1. Affidavit of Suntech's California Counsel, Christopher E. Ng;
2. Register of Actions from the Superior Court of California, County of San Francisco in Case No. CGC-12-520454; *Suntech America, Inc., a Delaware Corp. v. Acro Energy Technologies, Inc., a California et al*; and
3. Mr. Ng's January 8, 2013 Notice of Default and Demand to Cure forwarded to counsel, Gerald E. Brunn in San Francisco County Superior Court Case No. CGC-12-520454; *Suntech America, Inc. v. Acro Energy, et al*.

Sincerely,

HIRSCH & WESTHEIMER, P.C.

By:


Evan A. Moeller

cc w/encl.: Mr. Michael P. Fleming
Mr. David Tang
Michael P. Fleming & Associates, P.C.
440 Louisiana, Suite 1920
Houston, Texas 77002

Via Facsimile: 713.221.6806

WRITER'S DIRECT DIAL NUMBER
(713) 220-9163

LAW OFFICES OF
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HOUSTON, TEXAS 77002-2772

www.hirschwest.com
emoeller@hirschwest.com

Main Office: (713) 223-5181

Facsimile: (713) 223-9319

January 25, 2013

Honorable Debra Ibarra Mayfield
Harris County Civil Court at Law No. One (1)
201 Caroline, 5th Floor
Houston, Texas 77002

Via E-File

Re: Cause No. 1021235; *Harry Fleming v. Suntech America, Inc.*; In the
County Civil Court at Law Number One (1) of Harris County, Texas.

Dear Judge Mayfield:

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3. Mr. Ng's January 8, 2013 Notice of Default and Demand to Cure forwarded to counsel, Gerald E. Brunn in San Francisco County Superior Court Case No. CGC-12-520454; *Suntech America, Inc. v. Acro Energy, et al*.

Sincerely,

HIRSCH & WESTHEIMER, P.C.

By:


Evan A. Moeller

cc w/encl.: Mr. Michael P. Fleming
Mr. David Tang
Michael P. Fleming & Associates, P.C.
440 Louisiana, Suite 1920
Houston, Texas 77002

Via Facsimile: 713.221.6806

CAUSE NO. 1021235

HARRY FLEMING

Plaintiff,

v.

SUNTECH AMERICA, INC.

Defendant.

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§
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IN THE COUNTY COURT

AT LAW NO. ONE (1)

OF HARRIS COUNTY, TEXAS

AFFIDAVIT OF CHRISTOPHER E. NG

STATE OF CALIFORNIA

§
§
§

COUNTY OF LOS ANGELES

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared
Christopher E. Ng, the Affiant, known to me to be the person whose name is subscribed below.

After I administered an oath, Affiant testified as follows:

1. "My name is Christopher E. Ng. I am over 18 years of age, of sound mind, and capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
2. I am an attorney at law duly licensed to practice all the courts of the State of California.
3. I am a partner with the law firm of Gibbs, Giden, Locher, Turner & Senet LLP, attorneys of record for Suntech America, Inc., a Delaware corporation ("SUNTECH"), in Case No. CGC-12-520454; *Suntech America, Inc., a Delaware Corp. v. Acro Energy Technologies, Inc., a California et al*; In the Superior Court of California, County of San Francisco.
4. Attached as Exhibit A is a true and correct copy of the court docket that appeared on the website for the San Francisco County Superior Court in the case of *Suntech America, Inc., et al. v. Acro Energy Technologies, et al.*, Case #: CGC-12-520454 as of 2:38 p.m. PST on January 24, 2013.
5. On or about September 5, 2012, SUNTECH, on the one hand, and Defendants ACRO ENERGY TECHNOLOGIES, INC., a California corporation and ACRO ENERGY TECHNOLOGIES CORP., a Canadian corporation (hereinafter, "Settling Defendants"), entered into a Stipulation and Order for Dismissal re

20120621.20120621/1481748.1



Conditional Settlement Pursuant to Code of Civil Procedure § 664.6. A true and correct copy of the conformed Stipulation and Order entered by the Court on September 12, 2012, is attached hereto as Exhibit B.

6. Said Stipulation and Order expressly sets forth that SUNTECH and the Settling Defendants "conditionally resolved and settled the disputes between them," subject to Settling Defendants making certain monthly installment payments to SUNTECH, with the final payment scheduled to be made no later than August 7, 2013. Moreover, the Stipulation and Order note that Settling Defendants' payment obligations are secured by a written Stipulation for Entry of Judgment in the event of a default by Settling Defendants, and that "the Settlement Agreement permits SUNTECH to secure a joint and several judgment against Settling Defendants pursuant to the written Stipulation for Entry of Judgment and to pursue recovery against [Harry] Fleming." Finally, the Stipulation and Order contemplates that "the Court shall retain jurisdiction to set aside the dismissal and enforce the terms of the Settlement Agreement, including, but not limited to, entering joint and several judgment against Settling Defendants." (See Exhibit B).
7. Pursuant to the Court docket (Exhibit A), on September 19, 2012, the Court made the following entry:

**CASE MANAGEMENT CONFERENCE OF OCT-03-2012
CONTINUED TO NOV-21-2012 AT 2:00 PM. IN
DEPARTMENT 610 TO OBTAIN AN ANSWER(S) FROM,
OR ENTER DEFAULT(S) AGAINST, OR DISMISSAL OF
DEFENDANT(S) HARRY J. FLEMING, WHO WAS NOT
NAMED IN THE STIPULATION & ORDER FOR
DISMISSAL. NOTICE SENT BY COURT.**

See Exhibit A (emphasis added).

8. In fact, the Court issued an Order Continuing Case Management Conference, a true and correct copy of which is attached hereto as Exhibit C. The Order provided, in pertinent part:

**THIS CASE IS SET FOR A CASE MANAGEMENT
CONFERENCE ON NOV-21-2012 IN DEPARTMENT 610 at
2:00PPM TO OBTAIN AN ANSWER(S) FROM, OR ENTER
DEFAULT(S) AGAINST, OR DISMISSAL OF
DEFENDANT(S) HARRY J. FLEMING, WHO WAS NOT
NAMED IN THE STIPULATION & ORDER FOR
DISMISSAL.**

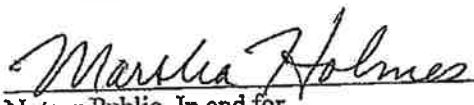
See Exhibit C (emphasis added).

9. On or about September 27, 2012, I submitted to the court a Request for Dismissal of Complaint as to Harry J. Fleming, without prejudice. A true and correct copy of the Request for Dismissal is attached hereto as Exhibit D. (Similarly, counsel for Settling Defendants filed a separate Request for Dismissal which is attached hereto as Exhibit E).
10. Attached hereto as Exhibit F is a true and correct copy of a string of emails between me and the attorney's office for Settling Defendants between September 27, 2012 and September 28, 2012. In said e-mails, we discuss the fact that we have not received conformed/entered copies of the request for dismissals, but that we will provide such conformed copies upon receipt.
11. To date, I have not received a conformed/entered copy of either Request for Dismissal from the Court.
12. On or about January 8, 2013, I emailed and mailed a Notice of Default and Request for Cure to the attorney for Settling Defendants, noting Settling Defendants' failure to make its \$100,000 installment payment. A true and correct copy of my default letter is attached hereto as Exhibit G.
13. No payment has been made to date and the cure period has expired. Moreover, the attorney for Settling Defendants, Gerald Brunn, Esq., called me on or about January 15, 2013 to advise me that no payment was forthcoming and that he understood that SUNTECH would take any action it deemed necessary pursuant to the settlement agreement.
14. I am preparing to file a Motion to Enter a Joint and Several Judgment against Settling Defendants pursuant to the written Stipulation for Entry of Judgment signed by Settling Defendants, as well as a Motion to Sever the action to continue prosecution of the complaint as against Harry J. Fleming, an individual.
15. Further Affiant sayeth not."


Christopher E. Ng, Esq.

Sworn to and subscribed before me on this the 24th day of January, 2013.




Notary Public, In and for
The State of California

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Superior Court of California, County of San Francisco

Case Number: CGC-12-520454

Title: SUNTECH AMERICA, INC., A DELAWARE CORPORATION VS. ACRO ENERGY

TECHNOLOGIES, INC., A CALIFORNIA et al

Cause of Action: CONTRACT/WARRANTY

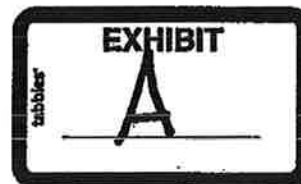
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Register of Actions Parties Attorneys Calendar Payments Documents**Register of Actions**Date Range: First Date May-01-2012 Last Date Jan-24-2013 (Dates must be entered as MMM-DD-YYYY)

Descending Date Sequence ▾ ▾

[\[Submit\]](#)

Date	Proceedings	Document	Fee
NOV-06-2012	CASE MANAGEMENT CONFERENCE OF NOV-21-2012 IS OFF CALENDAR - DISMISSAL ON FILE. NOTICE SENT BY COURT.	View	
OCT-01-2012	DISMISSAL WITHOUT PREJUDICE OF 1ST AMENDED COMPLAINT AS TO DEFENDANT FLEMING, HARRY J.	View	
SEP-25-2012	NOTICE OF ENTRY OF ORDER/NOTICE OF RULING FILED RE: STIPULATION AND ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
SEP-24-2012	CASE MANAGEMENT STATEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
SEP-19-2012	CASE MANAGEMENT CONFERENCE OF OCT-03-2012 CONTINUED TO NOV-21-2012 AT 2:00 PM IN DEPARTMENT 610 TO OBTAIN AN ANSWER(S) FROM, OR ENTER DEFAULT(S) AGAINST, OR DISMISSAL OF DEFENDANT(S) HARRY J. FLEMING, WHO WAS NOT NAMED IN THE STIPULATION & ORDER FOR DISMISSAL. NOTICE SENT BY COURT.	View	
SEP-14-2012	LAW AND MOTION, 302, CROSS DEFENDANT SUNTECH AMERICA, INC.'S MOTION TO STRIKE CROSS COMPLAINT SET FOR SEP-24-2012 IS OFF CALENDAR PER REQUEST OF MOVING PARTY.		
SEP-14-2012	LAW AND MOTION, 302, CROSS DEFENDANT SUNTECH AMERICA, INC.'S DEMURRER TO CROSS COMPLAINT SET FOR SEP-24-2012 IS OFF CALENDAR PER REQUEST OF MOVING PARTY.		
SEP-13-2012	DISMISSAL WITH PREJUDICE OF CROSS COMPLAINT FILED BY ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA FILED ON JUN-27-2012	View	
SEP-12-2012	ORDER AND STIPULATION FOR DISMISSAL RE CONDITIONAL SETTLEMENT PURSUANT TO CCP §664.6	View	
SEP-07-2012	LAW AND MOTION 302, APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT AGAINST DEFENDANT ACRO ENERGY TECHNOLOGIES INC. IS OFF CALENDAR PER STIPULATION TO DISMISS FILED BY THE PARTIES. JUDGE: HAROLD KAHN, CLERK: LESLEY FISCELLA, REPORTER: LAVENA WARD, CSR #7077.		
SEP-07-2012	LAW AND MOTION 302, APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT AGAINST DEFENDANT ACRO ENERGY TECHNOLOGIES CORP. IS OFF CALENDAR PER STIPULATION TO DISMISS FILED BY THE PARTIES. JUDGE: HAROLD KAHN, CLERK: LESLEY FISCELLA,		



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	REPORTER: LAVENA WARD, CSR #7077.		
SEP-07-2012	MINI MINUTES FOR SEP-07-2012 09:30 AM FOR DEPT 302		
SEP-07-2012	MINI MINUTES FOR SEP-07-2012 09:30 AM FOR DEPT 302		
SEP-06-2012	FILING FEE FOR STIP AND ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		20.00
SEP-04-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR SEP-07-2012 AT 09:30 AM IN DEPT 302		
SEP-04-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR SEP-07-2012 AT 09:30 AM IN DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INCORPORATED'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT. OFF CALENDAR. DUPLICATE ENTRY. =(302/HEK)		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INCORPORATED'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT. OFF CALENDAR. DUPLICATE ENTRY. =(302/HEK)		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INCORPORATED'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO SEPTEMBER 7, 2012 AT 9:30 AM PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976 =(302/HEK)		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO SEPTEMBER 7, 2012 AT 9:30 AM PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN, CLERK: CYNTHIA HERBERT; NOT REPORTED.		
AUG-30-2012	ORDER AND STIPULATION FOR FINAL CONTINUANCE OF HEARING ON APPLICATIONS FOR RIGHT TO ATTACH ORDER (TO SEP-07-2012)	View	
AUG-30-2012	FEE PAID ON: STIP & ORDER FOR FINAL CONTINUANCE OF HRG ON APPLICATIONS FOR RIGHT TO ATTACH ORDER FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		20.00
AUG-24-2012	ORDER AND STIPULATION FOR CONTINUANCE OF HEARING ON APPLICATIONS FOR RIGHT TO ATTACH ORDER	View	
AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		
AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		
AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		

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AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		
AUG-24-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 31, 2012 AT 9:30 AM IN DEPT. 302 PER AGREEMENT OF PARTIES. MOVING PARTY SHALL PROVIDE COURTESY COPIES OF THE MOVING PAPERS TO DEPARTMENT 302, WITH A COVER LETTER REFLECTING THE NEW HEARING DATE, NO LATER THAN AUGUST 25, 2012 AT 4 PM. JUDGE: MARLA J. MILLER; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-24-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 31, 2012 AT 9:30 AM IN DEPT. 302 PER AGREEMENT OF PARTIES. MOVING PARTY SHALL PROVIDE COURTESY COPIES OF THE MOVING PAPERS TO DEPARTMENT 302, WITH A COVER LETTER REFLECTING THE NEW HEARING DATE, NO LATER THAN AUGUST 25, 2012 AT 4 PM. JUDGE: MARLA J. MILLER; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-24-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 31, 2012 AT 9:30 AM IN DEPT. 302 PER AGREEMENT OF PARTIES. MOVING PARTY SHALL PROVIDE COURTESY COPIES OF THE MOVING PAPERS TO DEPARTMENT 302, WITH A COVER LETTER REFLECTING THE NEW HEARING DATE, NO LATER THAN AUGUST 25, 2012 AT 4 PM. JUDGE: MARLA J. MILLER; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-24-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 31, 2012 AT 9:30 AM IN DEPT. 302 PER AGREEMENT OF PARTIES. MOVING PARTY SHALL PROVIDE COURTESY COPIES OF THE MOVING PAPERS TO DEPARTMENT 302, WITH A COVER LETTER REFLECTING THE NEW HEARING DATE, NO LATER THAN AUGUST 25, 2012 AT 4 PM. JUDGE: MARLA J. MILLER; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-23-2012	FEE PAID ON STIPULATION FOR CONTINUANCE OF HEARING ON APPLICATIONS FOR RIGHT TO ATTACH ORDER AND [PROPOSED ORDER] FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		20.00
AUG-23-2012	COURT REPORTING SERVICES LESS THAN 1 HOUR FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION		30.00
AUG-23-2012	MOTION TO STRIKE CROSS COMPLAINT NTC OF MTN TO STRIKE; MEMO OF P & A AND POS FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION HEARING SET FOR SEP-24-2012 AT 09:30 AM IN DEPT 302		NO FEE

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AUG-23-2012	COURT REPORTING SERVICES LESS THAN 1 HOUR FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION		30.00
AUG-23-2012	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-23-2012	DEMURRER TO CROSS COMPLAINT NTC OF DEMURRER AND POS FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION HEARING SET FOR SEP-24-2012 AT 09:30 AM IN DEPT 302		60.00
AUG-23-2012	REPLY TO OPPOS. TO APPLICATIONS FOR RIGHT TO ATTACH ORDER FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-23-2012	OBJECTION TO DEC OF HARRY J FLEMING FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-23-2012	DECLARATION OF (SUPPLEMENTAL) VU KIM NGUYEN IN RESPONSE TO OPPOS. TO SUNTECH AMERICA INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-17-2012	DECLARATION OF MAHANVIR S. SAHOTA IN SUPPORT OF REQ. FOR JUDICIAL NTC IN OPPOS. TO APPLICATION FOR RIGHT TO ATTACH ORDER FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	REQ. FOR JUDICIAL NTC IN OPPOS. TO APPLICATION FOR RIGHT TO ATTACH ORDER FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	DECLARATION OF HARRY J FLEMING FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	NTC OF OPPOS. TO APPLICATION FOR WRIT OF ATTACHMENT AND MEMO OF P & A FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO		

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	ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INCORPORATED'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
JUL-30-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED JUN-25-2012, MAIL AND ACKNOWLEDGEMENT, ACKNOWLEDGMENT		

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	DATE JUN-26-2012 ON DEFENDANT FLEMING, HARRY J.		
JUL-20-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 3, 2012 AT 9:30 AM IN DEPT. 302 PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN; REPORTER: SHERRY SAWYER CSR #5976		
JUL-20-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 3, 2012 AT 9:30 AM IN DEPT. 302 PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN; REPORTER: SHERRY SAWYER CSR #5976		
JUL-20-2012	MINI MINUTES FOR JUL-20-2012 09:30 AM FOR DEPT 302		
JUL-20-2012	MINI MINUTES FOR JUL-20-2012 09:30 AM FOR DEPT 302		
JUL-17-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT (FROM 7/20/12) HEARING SET FOR AUG-03-2012 AT 09:30 AM IN DEPT 302		
JUL-17-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT (CONTINUED FROM JULY 20, 2012) HEARING SET FOR AUG-03-2012 AT 09:30 AM IN DEPT 302		
JUL-13-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO 7/20/12 AT 9:30 A.M. PER THE STIPULATION OF THE PARTIES. MATTER TO BE HEARD ON THE LAW AND MOTION CALENDAR. JUDGE: HAROLD KAHN; COURT REPORTER: SHERRY SAWYER, CSR # 5976 =(302/HEK)		
JUL-13-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO 7/20/12 AT 9:30 A.M. PER THE STIPULATION OF THE PARTIES. MATTER TO BE HEARD ON THE LAW AND MOTION CALENDAR. JUDGE: HAROLD KAHN; COURT REPORTER: SHERRY SAWYER, CSR # 5976		
JUL-13-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO BE HEARD AT 9:30 A.M. ON JULY 20, 2012 ON THE LAW AND MOTION CALENDAR. PRO TEM JUDGE: REBECCA WOODSON; NOT REPORTED		
JUL-13-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO BE HEARD AT 9:30 A.M. ON JULY 20, 2012 ON THE LAW AND MOTION CALENDAR. PRO TEM JUDGE: REBECCA WOODSON; NOT REPORTED		
JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:00 AM FOR DEPT 302		

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JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:00 AM FOR DEPT 302		
JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:30 AM FOR DEPT 302		
JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:30 AM FOR DEPT 302		
JUL-09-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-31-2012, PERSONAL SERVICE ON DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION		
JUL-09-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT) BY MAIL ON 6/7/12, PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED JUN-04-2012, SUBSTITUTE SERVICE ON NATURAL PERSON ON DEFENDANT FLEMING, HARRY J.		
JUL-09-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-31-2012, PERSONAL SERVICE ON DEFENDANT ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
JUL-05-2012	ADDED TO CALENDAR FOR MOVING PARTY: PLAINTIFF SUNTECH AMERICA, INC.'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR JUL-13-2012 AT 09:30 AM IN DEPT 302		
JUL-05-2012	ADDED TO CALENDAR FOR MOVING PARTY: PLAINTIFF SUNTECH AMERICA, INC.'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR JUL-13-2012 AT 09:30 AM IN DEPT 302		
JUN-27-2012	CROSS COMPLAINT FILED BY CROSS COMPLAINANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION AS TO CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
JUN-27-2012	ANSWER TO 1ST AMENDED COMPLAINT FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION	View	820.00
JUN-22-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED PER AGREEMENT OF COUNSEL TO JULY 13, 2012. JUDGE PRO TEM ERNST HALPERIN, NOT REPORTED.		
JUN-22-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED PER AGREEMENT OF COUNSEL TO JULY 13, 2012. JUDGE PRO TEM ERNST HALPERIN, NOT REPORTED.		
JUN-22-2012	MINI MINUTES FOR JUN-22-2012 09:00 AM FOR DEPT 302		
JUN-22-2012	MINI MINUTES FOR JUN-22-2012 09:00 AM FOR DEPT 302		
MAY-24-2012	PROOF OF SERVICE OF SUMMONS AND COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-09-2012, SUBSTITUTE SERVICE ON NATURAL PERSON ON DEFENDANT ACRO ENERGY	View	

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	TECHNOLOGIES, INC., A CALIFORNIA CORPORATION		
MAY-24-2012	PROOF OF SERVICE OF SUMMONS AND COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-09-2012, SUBSTITUTE SERVICE ON NATURAL PERSON ON DEFENDANT ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION	View	
MAY-24-2012	NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION HEARING SET FOR JUN-22-2012 AT 09:00 AM IN DEPT 302	View	40.00
MAY-24-2012	DECLARATION IN SUPPORT OF MOTION FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
MAY-24-2012	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
MAY-24-2012	PROOF OF SERVICE OF MOTION FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
MAY-24-2012	NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT ; REQUEST FOR JUDICIAL NOTICE FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION HEARING SET FOR JUN-22-2012 AT 09:00 AM IN DEPT 302	View	40.00
MAY-23-2012	SUMMONS ISSUED TO PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
MAY-23-2012	1ST AMENDED COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION AS TO DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION FLEMING, HARRY J. DOES 1-20, INCLUSIVE	View	
MAY-01-2012	NOTICE TO PLAINTIFF	View	
MAY-01-2012	CONTRACT/WARRANTY, COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION AS TO DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION DOES 1 TO 10, INCLUSIVE SUMMONS ISSUED, JUDICIAL COUNCIL CIVIL CASE COVER SHEET FILED CASE MANAGEMENT CONFERENCE SCHEDULED FOR OCT-03-2012 PROOF OF SERVICE DUE ON JUL-02-2012 CASE MANAGEMENT STATEMENT DUE ON SEP-18-2012	View	410.00

FILED
San Francisco County Superior Court

SEP 12 2012

CLERK OF THE COURT

By: Juan Jimenez
Deputy Clerk

1 Christopher E. Ng, Esq. (CSB #216969)

ong@egits.com

2 Lynsey M. Eaton, Esq. (CSB #261282)

leaton@egits.com

3 GIBBS, GIDEN, LOCHER, TURNER & SENE LLP

1880 Century Park East, 12th Floor
Los Angeles, California 90067-1621

Telephone: (310) 552-3400

5 Facsimile: (310) 552-0805

(941) 19003

6 Attorneys for Plaintiff SUNTECH AMERICA, INC., a Delaware corporation

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN FRANCISCO

10
11 SUNTECH AMERICA, INC., a Delaware
12 corporation

13 Plaintiff,

14 v.

15 ACRO ENERGY TECHNOLOGIES, INC., a
California corporation; ACRO ENERGY
16 TECHNOLOGIES CORP., a Canadian
corporation; HARRY J. FLEMING, an
17 individual; and DOES 1 through 20, inclusive.

18 Defendants.

Case No.: CGC-12-520454

[Unlimited Jurisdiction]

STIPULATION AND ~~PROPOSED~~
ORDER FOR DISMISSAL RE
CONDITIONAL SETTLEMENT
PURSUANT TO C.C.P. § 664.6

19
20 This Stipulation and Order for Dismissal Re Conditional Settlement ("Stipulation") is
21 entered into between Plaintiff SUNTECH AMERICA, INC., a Delaware corporation
22 (hereinafter, "SUNTECH" or "Plaintiff"), on the one hand, and Defendants ACRO
23 ENERGY TECHNOLOGIES CORP., a Canadian corporation, and ACRO ENERGY
24 TECHNOLOGIES, INC., a California corporation (hereinafter collectively, "SETTLING
25 DEFENDANTS") with respect to the following facts:

26 WHEREAS, on or about May 23, 2012, SUNTECH filed the operative First Amended
27 Complaint ("Complaint") in the above-captioned action (the "Action") against SETTLING
28 DEFENDANTS and HARRY J. FLEMING, an individual ("FLEMING").

STIPULATION AND ~~PROPOSED~~ ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT (664.6)

EXHIBIT

B

GIBBS, GIDEN, LOCHER, TURNER & SENE LLP

Grish, Carter, Loefer, Turner & Sawyer LLP

1 WHEREAS, subsequent thereto and in response to SUNTECH's Complaint,
 2 SETTLING DEFENDANTS filed an answer to SUNTECH's Complaint, as well as a cross-
 3 complaint ("Cross-Complaint") asserting various contractual, equitable and statutory claims
 4 against SUNTECH.

5 WHEREAS, the parties to this Action have conditionally resolved and settled the
 6 disputes between them including, but not limited to, all disputes which have arisen or may
 7 arise in connection with the Complaint, Cross-Complaint and Action, on the terms set forth
 8 in a signed written settlement agreement dated August 31, 2012 (hereinafter, "the Settlement
 9 Agreement").

10 WHEREAS, the Settlement Agreement requires SETTLING DEFENDANTS to make
 11 certain monthly installment payments to SUNTECH with the final payment scheduled to be
 12 made by SETTLING DEFENDANTS to SUNTECH no later than August 7, 2013;

13 WHEREAS, the installment payments pursuant to the Settlement Agreement are
 14 secured by a written Stipulation for Entry of Judgment in the event of a default by
 15 SETTLING DEFENDANTS;

16 WHEREAS if there is a default by SETTLING DEFENDANTS, the Settlement
 17 Agreement permits SUNTECH to secure a joint and several judgment against SETTLING
 18 DEFENDANTS pursuant to the written Stipulation for Entry of Judgment and to pursue
 19 recovery against FLEMING;

20
 21 IT IS HEREBY STIPULATED that SUNTECH's Complaint be dismissed, without
 22 prejudice; provided, however, that the Court shall retain jurisdiction to set aside the dismissal
 23 and enforce the terms of the Settlement Agreement, including but not limited to, entering
 24 joint and several judgment against SETTLING DEFENDANTS.

25 IT IS FURTHER STIPULATED that this Stipulation may be executed in counterparts
 26 and facsimile or PDF copies of signatures shall be binding upon the parties hereto as original
 27 signatures.

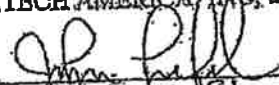
28

2
 STIPULATION AND [PROPOSED] ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT (6/4/6)
 134712.2

IT IS SO STIPULATED.

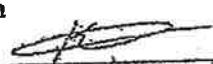
DATED: ~~August~~, 2012
September 5

SUNTECH AMERICA, INC., a Delaware corporation

By: 
Name: John Lefebvre
Title: President


DATED: ~~August~~, 2012
September 4

ACRO ENERGY TECHNOLOGIES, INC., a California corporation

By: 
Name: Andy Chen
Title: Chief Financial Officer

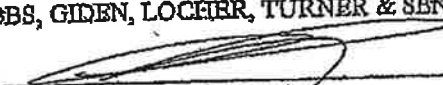
DATED: ~~August~~, 2012
September 4

ACRO ENERGY TECHNOLOGIES CORP., a Canadian corporation

By: 
Name: Andy Chen
Title: Chief Financial Officer

DATED: ~~August~~, 2012
September 5

GIBBS, GIDEN, LOCKER, TURNER & SNET LLP

By: 
Christopher B. Ng, Esq.,
Attorneys for Suntech America, Inc.

DATED: ~~August~~, 2012
September 5

LAW OFFICES OF BRUNN & FLYNN
A Professional Corporation

By: 
Gerald E. Brunn Esq.
Attorneys for Defendants


GIBBS, GIDEN, LOCKER, TURNER & SNET LLP

ORDER

The parties, having signed a written Stipulation for Dismissal re Conditional Settlement ("Stipulation"), and for good cause shown,

IT IS HEREBY ORDERED that the First Amended Complaint filed by Suntech America, Inc. in the above-captioned action be dismissed, without prejudice, based on the terms set forth in the Stipulation. It is further ordered that this Court shall retain jurisdiction pursuant to Code of Civil Procedure Section 664.6 to enforce the terms of the parties' written settlement agreement in accordance with the terms of the Stipulation.

DATED: SEP 12 2012


JUDGE OF THE SUPERIOR COURT
HAROLD KAHN

CHAS. GUDEN LECHE, TURNER & SENTER LLP

STIPULATION AND PROPOSED ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT (664.6)

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**
400 MCALLISTER STREET, SAN FRANCISCO, CA 94102-4514

SUNTECH AMERICA, INC., A DELAWARE
CORPORATION

PLAINTIFF (S)

VS.

ACRO ENERGY TECHNOLOGIES, INC., A
CALIFORNIA et al

DEFENDANT (S)

Case Management Department 610
Case Management Order

NO. CGC-12-520454

Order Continuing Case
Management Conference

TO: ALL COUNSEL AND SELF-REPRESENTED LITIGANTS

The OCT-03-2012 CASE MANAGEMENT CONFERENCE is canceled, and it is hereby ordered:

This case is set for a case management conference on NOV-21-2012 in Department 610 at 2:00 PM to obtain an answer(s) from, or enter default(s) against, or dismissal of defendant(s) HARRY J. FLEMING, who was not named in the Stipulation & Order for Dismissal.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than fifteen (15) days before the case management conference. However, it would facilitate the issuance of a case management order without an appearance at the case management conference if the case management statement is filed, served and lodged in Department 610 twenty-five (25) days before the case management conference.

PLAINTIFF(S) must serve a copy of this notice on all parties not listed on the attached proof of service within five (5) days of the date of this order.

DATED: SEP-19-2012

KATHERINE FEINSTEIN
JUDGE/COMMISSIONER

Order Continuing Case Management Conference
Form 000001



CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, certify that I am an employee of the Superior Court of California, County of San Francisco and not a party to the above-entitled cause and that on SEP-19-2012 I served the foregoing Order Continuing Case Management Conference on each counsel of record or party appearing in propria persona by causing a copy thereof to be enclosed in a postage paid sealed envelope and deposited in the United States Postal Service mail box located at 400 McAllister Street, San Francisco CA 94102-4514 pursuant to standard court practice.

Dated : SEP-19-2012

By: DARLENE LUM

GERALD E BRUNN (107004)
BRUNN & FLYNN, LAW OFCS.
928 - 12TH ST., STE. 200
MODESTO, CA 95354

CHRISTOPHER E. NG (216869)
GIBBS, GIDEN, LOCHER, TURNER & SENET
1880 CENTURY PARK EAST
12TH FLOOR
LOS ANGELES, CA 90067

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Christopher E. Ng, Esq. (CSB #216969) Gibbs, Giden, Locher, Turner & Senet LLP 1880 Century Park East, 12th Floor Los Angeles, California 90067 TELEPHONE NO.: (310) 552-3400 FAX NO. (Optional): (310) 552-0805 E-MAIL ADDRESS (Optional): cng@ggltts.com ATTORNEY FOR (Name): Suntech America, Inc.	FOR COURT USE ONLY <div style="text-align: center;"> FILED San Francisco County Superior Court OCT 01 2012 CLERK OF THE COURT BY: <u>[Signature]</u> Deputy Clerk </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: SAME CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse	
PLAINTIFF/PETITIONER: SUNTECH AMERICA, INC., a Delaware corporation DEFENDANT/RESPONDENT: ACRO ENERGY TECHNOLOGIES, INC., a California corporation, et al.	
REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify):	CASE NUMBER: CGC-12-520454

- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -

1. TO THE CLERK: Please dismiss this action as follows:

a. (1) ☐ With prejudice (2) ☒ Without prejudiceb. (1) ☐ Complaint (2) ☐ Petition(3) ☐ Cross-complaint filed by (name):

on (date):

(4) ☐ Cross-complaint filed by (name):

on (date):

(5) ☐ Entire action of all parties and all causes of action(6) ☒ Other (specify): Complaint as to HARRY J. FLEMING, an individual, ONLY.

2. (Complete in all cases except family law cases.)

☐ Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date: September 27, 2012

Gibbs, Giden, Locher, Turner & Senet LLP

Christopher E. Ng, Esq.

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

 Attorney or party without attorney for: SUNTECH AMERICA, INC., a Delaware corporation
☒ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

Attorney or party without attorney for:

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (f) or (j).

☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):5. ☐ Dismissal entered on (date):

as to only (name):

6. ☐ Dismissal not entered as requested for the following reasons (specify):7. a. ☐ Attorney or party without attorney notified on (date):b. ☐ Attorney or party without attorney not notified. Filing party failed to provide☐ a copy to be conformed ☐ means to return conformed copy

Date:

Clerk, by _____, Deputy

EXHIBIT

D

PROOF OF SERVICE
SUNTECH AMERICA, INC. V. ACRO ENERGY TECHNOLOGIES, INC.
CASE NO. CGC-12-520454

I, M. Esther Juarez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Gibbs, Giden, Locher, Turner & Senet LLP, 1880 Century Park East, 12th Floor, Los Angeles, California 90067-1621. On September 27, 2012, I served the document(s) described as **REQUEST FOR DISMISSAL (FLEMING)** on the interested parties in this action as follows:

☒ By placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 1880 Century Park East, Los Angeles, California 90067-1621 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Gibbs, Giden, Locher, Turner & Senet LLP, 1880 Century Park East, 12th Floor, Los Angeles, California 90067-1621.

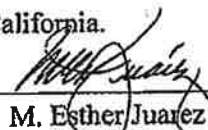
☐ **OVERNIGHT DELIVERY:** I deposited such envelope in a facility regularly maintained by ☐ FEDEX ☐ UPS ☐ Overnight Delivery [specify name of service: with delivery fees fully provided for or delivered the envelope to a courier or driver of ☒ FEDEX ☐ UPS ☒ OVERNIGHT DELIVERY, FEDEX is authorized to receive documents at Gibbs, Giden, Locher, Turner & Senet LLP, 1880 Century Park East, 12th Floor, Los Angeles, California 90067-1621 with delivery fees fully provided for.

☐ **BY FACSIMILE:** I sent via facsimile a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

☐ **BY E-MAIL:** I sent the document described above to the list of e-mail addresses as indicated on the attached Service List.

☒ [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 27, 2012, at Los Angeles, California.


M. Esther Juarez

4419.003 :

1232612_3

GIBBS, GIDEN, LOCHER, TURNER & SENET LLP

GIBBS, GIDEN, LOCHER, TURNER & SENET LLP

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SERVICE LIST

Gerald E. Brunn, Esq.
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354

Attorneys for Acro Energy Technologies,
Inc. and Acro Energy Technologies, Corp.

Telephone: (209)521-2133
Fax: (209)521-7584
E-mail: gbrunn@brunn-flynn.com

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Gerald E. Brunn, SBN 107004 LAW OFFICES OF BRUNN & FLYNN 928 12th Street, Suite 200 Modesto, CA 95354 TELEPHONE NO.: (209) 521-2133 FAX NO. (Optional): (209) 521-7584 E-MAIL ADDRESS (Optional): gbrunn@brunn-flynn.com ATTORNEY FOR (Name): Defendants/Cross-Complainant, ACRO ENERGY TECHNOLOGIES, INC., ACRO ENERGY TECHNOLOGIES CORP.		FOR COURT USE ONLY FILED San Francisco County Superior Court SEP 13 2012 CLERK OF THE COURT BY: <u>David Yoon</u> Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: 400 McAllister Street CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse		
PLAINTIFF/PETITIONER: SUNTECH AMERICA, INC., a Delaware corporation DEFENDANT/RESPONDENT: ACRO ENERGY TECHNOLOGIES, INC., a California corporation, et al.		
REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): Breach of Contract; Common Counts		CASE NUMBER: CGC-12-520454
- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -		

1. TO THE CLERK: Please dismiss this action as follows:

a. (1) ☒ With prejudice (2) ☐ Without prejudiceb. (1) ☐ Complaint (2) ☐ Petition(3) ☒ Cross-complaint filed by (name): ACRO ENERGY TECHNOLOGIES, INC. on (date): June 27, 2012(4) ☐ Cross-complaint filed by (name): on (date):(5) ☐ Entire action of all parties and all causes of action(6) ☐ Other (specify):*

2. (Complete in all cases except family law cases.)

☐ Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date: September 11, 2012

Gerald E. Brunn, SBN 107004

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only or of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

 (SIGNATURE)
 Attorney or party without attorney for ACRO ENERGY TECHNOLOGIES, INC.

☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☒ Cross-complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)
 (SIGNATURE)
 Attorney or party without attorney for:

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (f) or (j).

☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):5. ☐ Dismissal entered on (date): as to only (name):6. ☐ Dismissal not entered as requested for the following reasons (specify):7. a. ☐ Attorney or party without attorney notified on (date):b. ☐ Attorney or party without attorney not notified. Filing party failed to provide☐ a copy to be conformed ☐ means to return conformed copy

Date: _____ Clerk, by _____, Deputy



5600-12232

PROOF OF SERVICE
(1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA, COUNTY OF STANISLAUS

I, HEATHER J. McCAULEY, declare that:

I am employed in the County of Stanislaus, California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 928 12th Street, Suite 200, Modesto, California, 95354.

On September 11, 2012, I served the within:

REQUEST FOR DISMISSAL OF CROSS-COMPLAINT

on the interested parties as follows:

Christopher E. Ng, Esq.
Gibbs, Giden, Locher, Turner & Senet LLP
1880 Century Park East, 12th Floor
Los Angeles, CA 90067-1621
Tel: (310) 552-3400
Fax: (310) 552-0805

The following is the procedure in which service of this document was effected:

XXX U.S. Postal Service by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing mail in accordance with this office's practice, whereby the mail is deposited in a U.S. Mailbox in the City of Modesto, California after the close of the day's business.

 FAX


 Certified Mail - Return Receipt Requested

 Electronic Mail to

 Hand Delivered

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 11, 2012, at Modesto, California.


HEATHER J. McCAULEY

PROOF OF SERVICE

Christopher Ng

From: Heather McCauley <HMcCauley@brunn-flynn.com>
Sent: Friday, September 28, 2012 2:37 PM
To: Christopher Ng
Cc: Gerald Brunn
Subject: RE: Suntech v. Acro

Dear Mr. Ng:

I see what you mean. Although the request for dismissal is endorse-filed at the top, the section at the bottom was not completed by the court clerk as to when and if the dismissal was entered. This is the only copy that I have received back from the court. I was unable to reach a clerk at the San Francisco County Superior Court today, and the link to the dismissal posted on the court's website is also incomplete. For your information, the court's website shows the following recent filings:

Superior Court of California, County of San Francisco

Case Number: CGC-12-520454

Title: SUNTECH AMERICA, INC., A DELAWARE CORPORATION VS. ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA et al

Cause of Action: CONTRACT/WARRANTY

Generated: Sep-28-2012 2:08 pm PST

[Register of Actions](#) [Parties](#) [Attorneys](#) [Calendar](#) [Payments](#) [Documents](#)

Register of Actions

Date Range: First Date May-01-2012 Last Date Sep-28-2012 (Dates must be entered as MMM-DD-YYYY)

[Descending Date Sequence V] [V] [Submit]

Date	Proceedings	Document	File
SEP-25-2012	NOTICE OF ENTRY OF ORDER NOTICE OF RULING FILED RE: STIPULATION AND ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC. A DELAWARE CORPORATION		
SEP-24-2012	CASE MANAGEMENT STATEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC. A DELAWARE CORPORATION	View	
SEP-19-2012	CASE MANAGEMENT CONFERENCE OF OCT-03-2012 CONTINUED TO NOV-21-2012 AT 2:00 PM IN DEPARTMENT 610 TO OBTAIN AN ANSWER(S) FROM OR ENTER DEFAULT(S) AGAINST OR DISMISSAL OF DEFENDANT(S) HARRY J. FLEMING, WHO WAS NOT NAMED IN THE STIPULATION & ORDER FOR DISMISSAL. NOTICE SENT BY COURT	View	
SEP-14-2012	LAW AND MOTION 302 CROSS DEFENDANT SUNTECH AMERICA, INC.'S MOTION TO STRIKE CROSS COMPLAINT SET FOR SEP-24-2012 IS OFF CALENDAR PER REQUEST OF MOVING PARTY		
SEP-14-2012	LAW AND MOTION 302 CROSS DEFENDANT SUNTECH AMERICA, INC.'S DEMURRER TO CROSS COMPLAINT SET FOR SEP-24-2012 IS OFF CALENDAR PER REQUEST OF MOVING PARTY		
SEP-13-2012	DISMISSAL WITH PREJUDICE OF CROSS COMPLAINT FILED BY ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA FILED ON JUN 27-2012	View	
SEP-12-2012	ORDER AND STIPULATION FOR DISMISSAL RE CONDITIONAL	View	



SETTLEMENT PURSUANT TO CCP §664.6

If I receive a completed copy of the dismissal in the future, I will forward a copy to you. Thank you.

Heather McCauley
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354
Voice: 209-521-2133
Fax: 209-521-7584
E-Mail: hmccauley@brunn-flynn.com
Website: www.brunnandflynnlaw.com

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<hr size=2 width="100%" align=center tabindex=-1>

From: Christopher Ng [mailto:cng@gglts.com]
Sent: Friday, September 28, 2012 1:06 PM
To: Heather McCauley
Cc: Gerald Brunn
Subject: Re: Suntech v. Acro

Thanks Heather! I think we received a copy of this version by mail. You have not, however, received a conformed copy of the entered dismissal, right? I think the court is taking awhile with all filings.

Chris

On Sep 27, 2012, at 4:20 PM, "Heather McCauley" <HMccauley@brunn-flynn.com> wrote:

Dear Mr. Ng:

Please see the attached filed-marked copy of the Request for Dismissal of the Cross-Complaint of Acro Energy Technologies. Thank you.

Heather McCauley
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354
Voice: 209-521-2133
Fax: 209-521-7584
E-Mail: hmccauley@brunn-flynn.com
Website: www.brunnandflynnlaw.com

CONFIDENTIALITY NOTICE: This email transmission, and any documents, files, or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, you should not read this message, and you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is strictly prohibited. If you have received this transmission in error, please notify us immediately by reply e-mail, or by telephone at (209) 521-2133 and then please destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

<hr< ul:address=""> size=2 width="100%" align=center tabindex=-1> </hr>

From: Gerald Brunn
Sent: Thursday, September 27, 2012 3:55 PM
To: Christopher Ng
Cc: Heather McCauley
Subject: RE: Suntech v. Acro

Chris,

Thank you for the update. We received a copy of the file-marked dismissal of our cross-complaint. Heather will e-mail a copy to you this afternoon.

Jerry

Gerald E. Brunn
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354
Telephone: (209)521-2133
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E-mail: gbrunn@brunn-flynn.com

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files, or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, you should not read this message, and you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is strictly prohibited. If you have received this transmission in error, please notify us immediately by reply e-mail, by forwarding this message to gbrunn@brunn-flynn.com, or by telephone at (209)521-2133 and then please destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

From: Christopher Ng [<mailto:cng@gglts.com>]
Sent: Thursday, September 27, 2012 2:12 PM
To: Gerald Brunn
Subject: Suntech v. Acro

Jerry,

As we discussed yesterday, and in light of the Court's most recent case management order dated September 19, 2012, we are filing a separate dismissal without prejudice of Mr. Fleming. It is out for filing as of today and we will, of course, provide you a conformed copy of the dismissal upon our receipt of same. I take it that you have not received a conformed copy of the dismissal of the cross-complaint as of yet, correct?

Best,
Chris

<image001.jpg>

CHRISTOPHER ERIC NG, PARTNER
GIBBS GIDEN LOCHER TURNER & SENET LLP
1880 CENTURY PARK EAST, 12TH FLOOR
LOS ANGELES, CALIFORNIA 90067
(310) 552-3400
WWW.GGLTS.COM

Christopher Ng

From: Esther Juarez
Sent: Tuesday, January 08, 2013 9:03 AM
To: 'gbrunn@brunn-flynn.com'
Cc: Christopher Ng
Subject: Suntech America Inc. v. Acro Energy, et al.
Attachments: Notice of Default - Jan. ltr.pdf

SENT ON BEHALF OF CHRISTOPHER E. NG:

Dear Mr. Brunn:

Attached is a Notice of Default letter from Chris Ng for your file.

Also, Gibbs, Giden, Locher, Turner & Senet LLP has changed to
Gibbs Giden Locher Turner Senet & Wittbrodt LLP.

Kindly note your file and call me if you have any questions.

Thank you,
Esther-

GIBBS GIDEN

LOCHER TURNER SENET & WITTBRODT LLP
ATTORNEYS AT LAW

M. Esther Juarez, Legal Assistant to
Richard J. Wittbrodt, Esq.
Christopher E. Ng, Esq.
Lynsey M. Eaton, Esq.

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REPLY TO LOS ANGELES OFFICE
AUTHOR'S E-MAIL: CNG@GGLTS.COM

FILE NO.: 4419.3

JOSEPH M. GIDEN
WILLIAM D. LOCHER
GLENN E. TURNER III
GERALD A. GRIFFIN
ANYA STANLEY
THEODORE L. SENET
BARBARA R. GADBOIS
RICHARD J. WITTBRODT
RONALD S. SOFEN *
MICHAEL S. GIBEL
GARY E. SCALABRINI
JOSE L. PADILLA, JR.
STEVEN A. CUNEO, JR.
MICHAEL L. WAYNE
MATTHEW L. GRODE *
MARION T. HACK
CHRISTOPHER E. NG
BRENDAN S. PENNEY
RICHARD E. HASKIN *
PHILIP C. ZVONICEK

VICTOR F. LUKE
JONATHAN S. WOLF
JAMES I. MONTGOMERY, JR.
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SARA M. KORNBLATT
JOHN M. CONRAD
BRYAN M. GRAGG
ERIC W. SPIESS
LUKE N. EATON

OF COUNSEL
ALFRED FADEL A

RETIRED PARTNER
KENNETH C. GIBBS
(Full-Time Neutral)

VIA EMAIL & U.S. MAIL

NOTICE OF DEFAULT AND DEMAND TO CURE

January 8, 2013

Gerald E. Brunn, Esq.
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354
gbrunn@brunn-flynn.com

Re: Suntech America, Inc. v. Acro Energy, et al.
San Francisco County Superior Court Case No.: CGC-12-520454

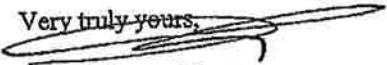
Dear Mr. Brunn:

Pursuant to the terms of the settlement agreement between Suntech America, Inc. ("Suntech"), on the one hand, and Acro Energy Technologies, Inc., a California Corporation and Acro Energy Technologies Corp., a Canadian corporation (collectively, "Acro"), on the other hand, please be advised that Acro has failed to timely pay the settlement installment payment of \$100,000.00 due on or before January 7, 2013 to Suntech.

Based on the foregoing, this letter shall serve as formal notice of Acro's default with respect to the terms of the settlement. As such, unless Suntech receives a payment in the sum of \$100,000.00 from Acro on or before the close of business on Tuesday, January 15, 2013, Suntech will file the Stipulation for Entry of Judgment with the San Francisco County Superior Court and have judgment immediately entered against Acro.

We look forward to receiving your clients' payment.

Very truly yours,


Christopher E. Ng, Esq.
for GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

CNG

* A PROFESSIONAL CORPORATION
* ADMITTED IN CALIFORNIA & NEVADA

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Superior Court of California, County of San Francisco

Case Number: CGC-12-520454

Title: SUNTECH AMERICA, INC., A DELAWARE CORPORATION VS. ACRO ENERGY
 TECHNOLOGIES, INC., A CALIFORNIA et al
 Cause of Action: CONTRACT/WARRANTY

Generated: Jan-24-2013 2:38 pm PST

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Register of Actions

Date Range: First Date May-01-2012 Last Date Jan-24-2013 (Dates must be entered as MMM-DD-YYYY)

Descending Date Sequence ▾

[\[Submit \]](#)

Date	Proceedings	Document	Fee
NOV-06-2012	CASE MANAGEMENT CONFERENCE OF NOV-21-2012 IS OFF CALENDAR - DISMISSAL ON FILE. NOTICE SENT BY COURT.	View	
OCT-01-2012	DISMISSAL WITHOUT PREJUDICE OF 1ST AMENDED COMPLAINT AS TO DEFENDANT FLEMING, HARRY J.	View	
SEP-25-2012	NOTICE OF ENTRY OF ORDER/NOTICE OF RULING FILED RE: STIPULATION AND ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
SEP-24-2012	CASE MANAGEMENT STATEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
SEP-19-2012	CASE MANAGEMENT CONFERENCE OF OCT-03-2012 CONTINUED TO NOV-21-2012 AT 2:00 PM IN DEPARTMENT 610 TO OBTAIN AN ANSWER(S) FROM, OR ENTER DEFAULT(S) AGAINST, OR DISMISSAL OF DEFENDANT(S) HARRY J. FLEMING, WHO WAS NOT NAMED IN THE STIPULATION & ORDER FOR DISMISSAL. NOTICE SENT BY COURT.	View	
SEP-14-2012	LAW AND MOTION, 302, CROSS DEFENDANT SUNTECH AMERICA, INC.'S MOTION TO STRIKE CROSS COMPLAINT SET FOR SEP-24-2012 IS OFF CALENDAR PER REQUEST OF MOVING PARTY.		
SEP-14-2012	LAW AND MOTION, 302, CROSS DEFENDANT SUNTECH AMERICA, INC.'S DEMURRER TO CROSS COMPLAINT SET FOR SEP-24-2012 IS OFF CALENDAR PER REQUEST OF MOVING PARTY.		
SEP-13-2012	DISMISSAL WITH PREJUDICE OF CROSS COMPLAINT FILED BY ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA FILED ON JUN-27-2012	View	
SEP-12-2012	ORDER AND STIPULATION FOR DISMISSAL RE CONDITIONAL SETTLEMENT PURSUANT TO CCP §664.6	View	
SEP-07-2012	LAW AND MOTION 302, APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT AGAINST DEFENDANT ACRO ENERGY TECHNOLOGIES INC. IS OFF CALENDAR PER STIPULATION TO DISMISS FILED BY THE PARTIES. JUDGE: HAROLD KAHN, CLERK: LESLEY FISCELLA, REPORTER: LAVENA WARD, CSR #7077.		
SEP-07-2012	LAW AND MOTION 302, APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT AGAINST DEFENDANT ACRO ENERGY TECHNOLOGIES CORP. IS OFF CALENDAR PER STIPULATION TO DISMISS FILED BY THE PARTIES. JUDGE: HAROLD KAHN, CLERK: LESLEY FISCELLA,		

EXHIBIT**2**

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	REPORTER: LAVENA WARD, CSR #7077.		
SEP-07-2012	MINI MINUTES FOR SEP-07-2012 09:30 AM FOR DEPT 302		
SEP-07-2012	MINI MINUTES FOR SEP-07-2012 09:30 AM FOR DEPT 302		
SEP-06-2012	FILING FEE FOR STIP AND ORDER FOR DISMISSAL RE CONDITIONAL SETTLEMENT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		20.00
SEP-04-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR SEP-07-2012 AT 09:30 AM IN DEPT 302		
SEP-04-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR SEP-07-2012 AT 09:30 AM IN DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	MINI MINUTES FOR AUG-31-2012 09:30 AM FOR DEPT 302		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INCORPORATED'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT. OFF CALENDAR. DUPLICATE ENTRY. =(302/HEK)		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INCORPORATED'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT. OFF CALENDAR. DUPLICATE ENTRY. =(302/HEK)		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INCORPORATED'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO SEPTEMBER 7, 2012 AT 9:30 AM PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976 =(302/HEK)		
AUG-31-2012	LAW AND MOTION 302, PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO SEPTEMBER 7, 2012 AT 9:30 AM PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN, CLERK: CYNTHIA HERBERT; NOT REPORTED.		
AUG-30-2012	ORDER AND STIPULATION FOR FINAL CONTINUANCE OF HEARING ON APPLICATIONS FOR RIGHT TO ATTACH ORDER (TO SEP-07-2012)	View	
AUG-30-2012	FEE PAID ON: STIP & ORDER FOR FINAL CONTINUANCE OF HRG ON APPLICATIONS FOR RIGHT TO ATTACH ORDER FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		20.00
AUG-24-2012	ORDER AND STIPULATION FOR CONTINUANCE OF HEARING ON APPLICATIONS FOR RIGHT TO ATTACH ORDER	View	
AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		
AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		
AUG-24-2012	MINI MINUTES FOR AUG-24-2012 09:30 AM FOR DEPT 302		

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AUG-23-2012	COURT REPORTING SERVICES LESS THAN 1 HOUR FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION		30.00
AUG-23-2012	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-23-2012	DEMURRER TO CROSS COMPLAINT NTC OF DEMURRER AND POS FILED BY CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION HEARING SET FOR SEP-24-2012 AT 09:30 AM IN DEPT 302		60.00
AUG-23-2012	REPLY TO OPPOS. TO APPLICATIONS FOR RIGHT TO ATTACH ORDER FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-23-2012	OBJECTION TO DEC OF HARRY J FLEMING FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-23-2012	DECLARATION OF (SUPPLEMENTAL) VU KIM NGUYEN IN RESPONSE TO OPPOS. TO SUNTECH AMERICA INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
AUG-17-2012	DECLARATION OF MAHANVIR S. SAHOTA IN SUPPORT OF REQ. FOR JUDICIAL NTC IN OPPOS. TO APPLICATION FOR RIGHT TO ATTACH ORDER FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	REQ. FOR JUDICIAL NTC IN OPPOS. TO APPLICATION FOR RIGHT TO ATTACH ORDER FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	DECLARATION OF HARRY J FLEMING FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	NTC OF OPPOS. TO APPLICATION FOR WRIT OF ATTACHMENT AND MEMO OF P & A FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO		

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	ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION FOR RIGHT TO ATTACH ORDER AND ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 24, 2012 AT 9:30 AM IN DEPARTMENT 302 PER AGREEMENT OF PARTIES. JUDGE: ERNEST H. GOLDSMITH; CLERK: GINA GONZALES; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-17-2012	MINI MINUTES FOR AUG-17-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	MINI MINUTES FOR AUG-03-2012 09:30 AM FOR DEPT 302		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INCORPORATED'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
AUG-03-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 17, 2012 PER AGREEMENT OF THE PARTIES. JUDGE: CURTIS KARNOW, CLERK: CYNTHIA HERBERT; COURT REPORTER: SHERRY SAWYER CSR # 5976		
JUL-30-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED JUN-25-2012, MAIL AND ACKNOWLEDGEMENT, ACKNOWLEDGMENT		

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	DATE JUN-26-2012 ON DEFENDANT FLEMING, HARRY J.		
JUL-20-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 3, 2012 AT 9:30 AM IN DEPT. 302 PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN; REPORTER: SHERRY SAWYER CSR #5976		
JUL-20-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER AND FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO AUGUST 3, 2012 AT 9:30 AM IN DEPT. 302 PER THE AGREEMENT OF THE PARTIES. JUDGE: HAROLD KAHN; REPORTER: SHERRY SAWYER CSR #5976		
JUL-20-2012	MINI MINUTES FOR JUL-20-2012 09:30 AM FOR DEPT 302		
JUL-20-2012	MINI MINUTES FOR JUL-20-2012 09:30 AM FOR DEPT 302		
JUL-17-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT (FROM 7/20/12) HEARING SET FOR AUG-03-2012 AT 09:30 AM IN DEPT 302		
JUL-17-2012	ADDED TO CALENDAR FOR PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT (CONTINUED FROM JULY 20,2012) HEARING SET FOR AUG-03-2012 AT 09:30 AM IN DEPT 302		
JUL-13-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO 7/20/12 AT 9:30 A.M. PER THE STIPULATION OF THE PARTIES. MATTER TO BE HEARD ON THE LAW AND MOTION CALENDAR. JUDGE: HAROLD KAHN; COURT REPORTER: SHERRY SAWYER, CSR # 5976 =(302/HEK)		
JUL-13-2012	LAW AND MOTION 302, NO APPEARANCE ON THIS MATTER. THE COURT ADOPTED ITS TENTATIVE RULING. PLAINTIFF SUNTECH AMERICA, INC.'S HEARING ON APPLICATION FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO 7/20/12 AT 9:30 A.M. PER THE STIPULATION OF THE PARTIES. MATTER TO BE HEARD ON THE LAW AND MOTION CALENDAR. JUDGE: HAROLD KAHN; COURT REPORTER: SHERRY SAWYER, CSR # 5976		
JUL-13-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO BE HEARD AT 9:30 A.M. ON JULY 20, 2012 ON THE LAW AND MOTION CALENDAR. PRO TEM JUDGE: REBECCA WOODSON; NOT REPORTED		
JUL-13-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED TO BE HEARD AT 9:30 A.M. ON JULY 20, 2012 ON THE LAW AND MOTION CALENDAR. PRO TEM JUDGE: REBECCA WOODSON; NOT REPORTED		
JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:00 AM FOR DEPT 302		

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JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:00 AM FOR DEPT 302		
JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:30 AM FOR DEPT 302		
JUL-13-2012	MINI MINUTES FOR JUL-13-2012 09:30 AM FOR DEPT 302		
JUL-09-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-31-2012, PERSONAL SERVICE ON DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION		
JUL-09-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT) BY MAIL ON 6/7/12, PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED JUN-04-2012, SUBSTITUTE SERVICE ON NATURAL PERSON ON DEFENDANT FLEMING, HARRY J.		
JUL-09-2012	SUMMONS ON COMPLAINT (FIRST AMENDED COMPLAINT), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-31-2012, PERSONAL SERVICE ON DEFENDANT ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION		
JUL-05-2012	ADDED TO CALENDAR FOR MOVING PARTY: PLAINTIFF SUNTECH AMERICA, INC.'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR JUL-13-2012 AT 09:30 AM IN DEPT 302		
JUL-05-2012	ADDED TO CALENDAR FOR MOVING PARTY: PLAINTIFF SUNTECH AMERICA, INC.'S NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT HEARING SET FOR JUL-13-2012 AT 09:30 AM IN DEPT 302		
JUN-27-2012	CROSS COMPLAINT FILED BY CROSS COMPLAINANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION AS TO CROSS DEFENDANT SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
JUN-27-2012	ANSWER TO 1ST AMENDED COMPLAINT FILED BY DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION	View	820.00
JUN-22-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED PER AGREEMENT OF COUNSEL TO JULY 13, 2012. JUDGE PRO TEM ERNST HALPERIN, NOT REPORTED.		
JUN-22-2012	DISCOVERY 302, PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION'S HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT IS CONTINUED PER AGREEMENT OF COUNSEL TO JULY 13, 2012. JUDGE PRO TEM ERNST HALPERIN, NOT REPORTED.		
JUN-22-2012	MINI MINUTES FOR JUN-22-2012 09:00 AM FOR DEPT 302		
JUN-22-2012	MINI MINUTES FOR JUN-22-2012 09:00 AM FOR DEPT 302		
MAY-24-2012	PROOF OF SERVICE OF SUMMONS AND COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-09-2012, SUBSTITUTE SERVICE ON NATURAL PERSON ON DEFENDANT ACRO ENERGY	View	

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	TECHNOLOGIES, INC., A CALIFORNIA CORPORATION		
MAY-24-2012	PROOF OF SERVICE OF SUMMONS AND COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION SERVED MAY-09-2012, SUBSTITUTE SERVICE ON NATURAL PERSON ON DEFENDANT ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION	View	
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MAY-24-2012	DECLARATION IN SUPPORT OF MOTION FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
MAY-24-2012	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
MAY-24-2012	PROOF OF SERVICE OF MOTION FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION		
MAY-24-2012	NOTICE OF APPLICATION AND HEARING FOR RIGHT TO ATTACH ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT ; REQUEST FOR JUDICIAL NOTICE FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION HEARING SET FOR JUN-22-2012 AT 09:00 AM IN DEPT 302	View	40.00
MAY-23-2012	SUMMONS ISSUED TO PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION	View	
MAY-23-2012	1ST AMENDED COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION AS TO DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION FLEMING, HARRY J. DOES 1-20, INCLUSIVE	View	
MAY-01-2012	NOTICE TO PLAINTIFF	View	
MAY-01-2012	CONTRACT/WARRANTY, COMPLAINT FILED BY PLAINTIFF SUNTECH AMERICA, INC., A DELAWARE CORPORATION AS TO DEFENDANT ACRO ENERGY TECHNOLOGIES, INC., A CALIFORNIA CORPORATION ACRO ENERGY TECHNOLOGIES CORP., A CANADIAN CORPORATION DOES 1 TO 10, INCLUSIVE SUMMONS ISSUED, JUDICIAL COUNCIL CIVIL CASE COVER SHEET FILED CASE MANAGEMENT CONFERENCE SCHEDULED FOR OCT-03-2012 PROOF OF SERVICE DUE ON JUL-02-2012 CASE MANAGEMENT STATEMENT DUE ON SEP-18-2012	View	410.00

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AUTHOR'S E-MAIL: CNG@GGLT.COM

FILE NO.: 4419.3

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ALFRED FADEL A

RETIRED PARTNER
KENNETH C. GIBBS
(Full-Time Neutral)

VIA EMAIL & U.S. MAIL

NOTICE OF DEFAULT AND DEMAND TO CURE

January 8, 2013

Gerald E. Brunn, Esq.
Law Offices of Brunn & Flynn
928 12th Street, Suite 200
Modesto, CA 95354
gbrunn@brunn-flynn.com

Re: Suntech America, Inc. v. Acro Energy, et al.
San Francisco County Superior Court Case No.: CGC-12-520454

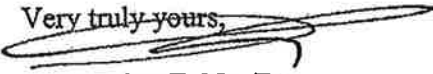
Dear Mr. Brunn:

Pursuant to the terms of the settlement agreement between Suntech America, Inc. ("Suntech"), on the one hand, and Acro Energy Technologies, Inc., a California Corporation and Acro Energy Technologies Corp., a Canadian corporation (collectively, "Acro"), on the other hand, please be advised that Acro has failed to timely pay the settlement installment payment of \$100,000.00 due on or before January 7, 2013 to Suntech.

Based on the foregoing, this letter shall serve as formal notice of Acro's default with respect to the terms of the settlement. As such, unless Suntech receives a payment in the sum of \$100,000.00 from Acro on or before the close of business on Tuesday, January 15, 2013, Suntech will file the Stipulation for Entry of Judgment with the San Francisco County Superior Court and have judgment immediately entered against Acro.

We look forward to receiving your clients' payment.

Very truly yours,


Christopher E. Ng, Esq.
for GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

CNG



▲ A PROFESSIONAL CORPORATION
* ADMITTED IN CALIFORNIA & NEVADA

Cause No. 1021235

HARRY FLEMING,

Plaintiff,

vs.

SUNTECH AMERICA, INC.,

Defendant

IN THE COUNTY CIVIL COURT

AT LAW NO. ONE (1)

OF HARRIS COUNTY, TEXAS

ORDER GRANTING MOTION TO COMPEL

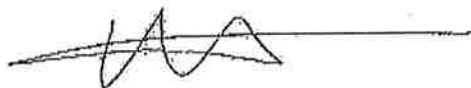
On _____, 2013, this Court considered Plaintiff's Motion to Compel Discovery and hereby GRANTS said motion and ORDERS that Defendant's objections to Plaintiff's First Interrogatories and Request for Production are overruled and Defendant SUNTECH AMERICA, INC. shall, on or before 9:00 a.m., February 5, 2013, fully respond to Plaintiff's First Interrogatories No. 1 through 24 and shall produce all responsive documents to Plaintiff's Request for Production Nos. 1 through 39 to Plaintiff's counsel.

Date: _____, 2013.

Judge Presiding

Agreed as to form and substance:

Michael P. Fleming & Associates, P.C.



By: _____

Michael P. Fleming

SBN: 07130600

David Tang

State Bar No. 24014483

440 Louisiana, Suite 1920
Houston, Texas 77002
(713) 221-6800
(713) 221-6806 fax

**COUNSEL FOR PLAINTIFF,
HARRY FLEMING**

FILED
13 January 29 P5:11
Stan Stanart
County Clerk
Harris County

CAUSE NO. 1021235

HARRY FLEMING	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	AT LAW NO. ONE (1)
	§	
SUNTECH AMERICA, INC.	§	
	§	
Defendant.	§	OF HARRIS COUNTY, TEXAS

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL

Came on to be heard Plaintiff's Motion to Compel Discovery, and after considering the same, Suntech America, Inc.'s Response, Plaintiff's Reply, if any, and the arguments of counsel, the Court **GRANTS** said Motion and **ORDERS** that Defendant's objections to Plaintiff's First Interrogatories and Request for Production are overruled and Defendant Suntech America, Inc. shall, on or before 5:00 p.m. on February 12, 2013, serve upon counsel for Plaintiff:


- a. Answers to Plaintiff's First Interrogatories Nos. 1 through 24;
- b. Responsive documents to Plaintiff's Request for Production Nos. 1 through 39.

SIGNED this the ____ day of _____, 2013.

JUDGE PRESIDING

APPROVED AS TO FORM:

HIRSCH & WESTHEIMER, P.C.

By: 

Evan A. Moeller
State Bar No. 24051067/
700 Louisiana, 25th Floor
Houston, Texas 77002-2772
Telephone: (713) 220-9182
Facsimile: (713) 223-9319

**ATTORNEYS FOR DEFENDANT,
SUNTECH AMERICA, INC.**

Cause No. 1021235

HARRY FLEMING,

Plaintiff,

vs.

SUNTECH AMERICA, INC.,

Defendant

IN THE COUNTY CIVIL COURT

AT LAW NO. ONE (1)

OF HARRIS COUNTY, TEXAS

ORDER GRANTING MOTION TO COMPEL

On _____, 2013, this Court considered Plaintiff's Motion to Compel Discovery and hereby GRANTS said motion and ORDERS that Defendant's objections to Plaintiff's First Interrogatories and Request for Production are overruled and Defendant SUNTECH AMERICA, INC. shall, on or before 9:00 a.m., February ⁸ 2013, fully respond to Plaintiff's First Interrogatories No. 1 through 24 and shall produce all responsive documents to Plaintiff's Request for Production Nos. 1 through 39 to Plaintiff's counsel.

Date: Jan 29, 2013.

Judge Presiding

Agreed as to form and substance:

Michael P. Fleming & Associates, P.C.

By: _____

Michael P. Fleming

SBN: 07130600

David Tang

State Bar No. 24014483

FILED
2013 JAN 29 PM 3:45
HARRIS COUNTY TEXAS
FILED
2013 JAN 29 AM 11:19
HARRIS COUNTY TEXAS

20130314343004
440 Louisiana, Suite 1920
Houston, Texas 77002
(713) 221-6800
(713) 221-6806 fax

**COUNSEL FOR PLAINTIFF,
HARRY FLEMING**

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.